

REMARKS

I. Response to Claim Objections

Claim 14 has been amended pursuant to the Examiner's objection by correcting the term "disc" to read "discs".

II. Response to Rejection Under 35 U.S.C. § 112

Claim 2 is rejected under § 112, first paragraph, as failing to comply with the written description requirement. The Examiner notes, "There is no support for the scope of claim 2 as to a disc diameters that are not 'equal' but instead are more broadly 'substantially equal'". *See* Office Action at ¶ 5.

The Applicant notes that the specification teaches, "two circular discs 53, 54, each having a glossy circumferential surface and a diameter **approximately equal** to that of the striking wheel 52..." *See* USP 5,897,307 (col. 5, lines 27-29). The Applicant submits that the claim language "substantially equal" is supported by the specification teaching that the diameter of the discs are "approximately equal" to the striking wheel. Nonetheless, claim 2 has been amended to remove the qualifier "substantially". Applicant respectfully requests the § 112 rejection of claim 2 be withdrawn.

III. Response to Rejection Under 35 U.S.C. § 103

A. The Claims are Patentable over Zellweger and Jon

Claims 2, 3, 6, 8, 9, 13, and 14 are rejected under § 103 as being unpatentable over U.S. Patent No. 5,096,414 to Zellweger in view of U.S. Patent No. 5,597,299 to Jon. *See* Office Action at ¶ 8.

In regards to claims 3 and 14, the Examiner remarks that "as show[n] in Fig. 3 [of Zellweger], the circular discs formed by the pins (5) at both ends of the striking (6) have a

diameter that is smaller than that of the striking wheel (6).” *See* Office Action at ¶ 8 (p. 5). The Applicant respectfully submits that the pin (5) in Zellweger does not constitute or “form” two circular discs in the manner recited by the claims in the present application. In determining obviousness under § 103, it is important to consider the motivation to make the claimed invention and the problem that the invention is directed to solve in comparison to the prior art. *See generally, KSR Int’l Co. v. Teleflex Inc.*, ___ U.S. ___, 127 S.Ct. 1727 (April 30, 2007). In Zellweger, “The plates 7 and 8 are freely rotatably mounted on the pin 5, and thus cannot cause rotation of the wheel 6.” (col. 1, lines 53-55) Because the plates rotate freely of the strike wheel, downward actuating force from the thumb is displaced by the plates, so that not all of the force is translated directly to the strike wheel. This has the effect of requiring greater force for actuating the strike wheel and igniting the flame. Also, “the height of the plates 7 and 8 above the flame guard 9 is greater than that of the wheel 6, because their diameter is greater than that of the wheel.” (col. 1, lines 55-57) Because the plates have greater diameter than the wheel, there is less contact between the thumb and the wheel, which makes it harder for children to make contact with the strike wheel because children’s thumbs have less “pulp”. In the present application, the discs (which correspond to the Zellweger “plates”) can be “integrally affixed” to the wheel or it and be made of “a single cylindrical metal rod” with the wheel so as to constitute a “one-body configuration”. Thus, the downward actuating force from the thumb is translated to the strike wheel.

With this background, it is clear that the pin (5) in Zellweger cannot be regarded as discs (53, 54) in the present invention. The discs (53, 54) and the strike wheel (52) are mounted on pin

(521). *See* ‘307 Patent (Fig. 2, and col. 4, lines 59-67).¹ The discs (53, 54) in the present invention are comparable to the plates (7, 8) in Zellweger. And the pin (521) in the present invention is comparable to the pin (5) in Zellweger. Therefore, the pin (5) in Zellweger do not form discs in terms of either its structure or functionality, since the pin (5) do not perform any safety function as the discs (53, 54) do in the present invention. (The Examiner remarks in regards to claims 2 and 13, the “pins (5) ... **are not regarded as the discs.**” *See* Office Action at ¶ 8 (p. 6). The Applicant submits that it is inconsistent to regard the pin (5) as discs for one set of claims but not other claims.)

In regards to claims 2 and 13, the Examiner remarks that “[i]n applicant’s specification the means for demarcating the wheel and circular discs is understood to be the ‘glossy circumferential’ surface of the circular discs (53, 54) versus the ‘circumferential coarse striking surface 552’ of the striking wheel...However, applicant’s claims 2 and 13 have omitted the recitation of the surfaces of the circular discs are ‘glossy’.” *See* Office Action at ¶ 8 (p. 6). Claims 2, 3, 13 and 14 have been amended to restore the limitation “glossy” to the circular discs. Therefore, claims 2, 3, 6, 8, 9, 13, and 14 are patentable because the combination of Zellweger and Jon would not yield the results of the claimed invention.

Claims 6, 8, 9 are rejected over Zellweger in view of Jon. *See* Office Action at ¶ 8 (p. 7). These claims are dependent on claim 3. Since claim 3 as amended is patentable for the reasons above, claims 6, 8, and 9 are patentable as well.

B. Claims 2 and 8 are Patentable Over Zellweger in View of Jon and Huang

Claims 2 and 8 are rejected under § 103 over Zellweger in view of Jon and U.S. Patent No. 5,364,261 to Huang. *See* Office Action at ¶ 9. The Examiner remarks:

¹ For convenience, the Applicant cites to the specification of U.S. Patent No. 5,897,307 (the “’307 Patent”), on which this reissue is based.

...even if *arguendo*, the one-body striking wheel (6) [of Zellweger] cannot be regarded as forming both a striking wheel and two ends, the examiner now points to the striking wheel shown in Huang.

...In Huang, the lighter includes a striking wheel (5) that is shown as having a central rough portion and additional outer rough portions (see Fig. 2). Huang does not go into detail as to the relative sizes of these portions of the striking wheel (50), however, despite what may be minor deviations in the diameters, the diameters appear to be at least “substantially equal” as recited.

See Office Action at ¶ 9 (p. 8). Given the amendments to the claims by restoring the limitation “glossy” and deleting “substantially,” the rejection over Huang is moot. As the Examiner notes, in Huang the outer portions are rough as shown in Fig. 2. And the outer portions have a bigger diameter than the striking wheel. Therefore, claims 2 and 8 are not unpatentable over Zellweger in view of Jon and Huang.

C. Claims 3, 6, 9, and 14 are Patentable over Zellweger in view of Jon and Turner

Claims 3, 6, 9, and 14 are rejected under § 103 as being unpatentable over Zellweger in view of Jon and U.S Patent No. 2,725,737 to Turner. See Office Action at ¶ 10. The Examiner remarks:

...even if *arguendo*, the pins (5) on either side of the striking wheel (6) are not properly regarded as the recited circular discs having diameters smaller than [sic] that of the striking wheel, the examiner now points to the circular discs shown in Turner.

...In Turner, a striking wheel (3) is arranged between upstanding supports (40) of a mounting frame in manner substantially identical to Zellweger. Turner shows a pintle (5) that enables rotation of the striking wheel. Further Turner also shows that circular discs in the form of washers (6) may [b]e arranged between the striking wheel (3) and the supports (4) in order to prevent longitudinal movement of the wheel (3) along the pintle (5) (see col. 1, lines 43-46)...

Therefore, it would have been obvious to a person of ordinary skill in the art at the time the invention was made to modify the striking wheel of Zellweger to incorporate the washers/circular discs of Turner for the desirable purpose of preventing longitudinal movement of the striking wheel along its pintle...

See Office Action at ¶ 10 (p. 9). Just as with the pin (5) in Zellweger, the washer (6) in Turner does not constitute the discs (53, 54) of the present invention. A “washer” is a “a flat thin ring or a perforated plate used in joints or assemblies to ensure tightness, prevent leakage, or relieve friction.” *See* Merriam-Webster On-line Dictionary.² As noted by the Examiner, the washer (6) “prevents longitudinal movement of the wheel 3 along the pintle 5.” (Turner, col. 1, lines 45-46) In the present invention, the discs (53, 54) are not designed to prevent longitudinal movement of the strike wheel. Rather, the discs (53,54) are to “fill the gaps between two sides of the striking wheel 52 and the two bent-edge members 63, 64 and to provide a better striking contact with an adult’s thumb by increasing the contact area...” *See* ‘307 Patent (col., 5, lines 24-26). The Applicant submits that claims 3, 6, 9, and 14 are patentable over Zellweger in view of Jon and Turner.

² <http://www.merriam-webster.com/dictionary/washer>

CONCLUSION

The Examiner is respectfully requested to reconsider his position in view of the remarks made herein. It is believed that claims 2, 3, 6, 8, 9, 13, and 14 have been placed in condition for allowance, and such action is respectfully requested.

If the Examiner believes that a telephone or other conference would be of value in expediting the prosecution of the present application, enabling an Examiner's amendment or other meaningful discussion of the case, Applicant invites the Examiner to contact Applicant's representative at (310) 777-8399.

If any additional fees are required as a result of this amendment, or any credit needs to be made for overpayment of fees, the Commissioner is hereby authorized to charge such fees to Deposit Account No. 500703.

Respectfully submitted,

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April 25, 2008

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